



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	<b>04/03/01</b>	Bill No:	<b>SB 1064</b>
Tax:	<b>Sales and Use</b>	Author:	<b>Polanco</b>
Board Position:		Related Bills:	<b>AB 1077 (Mountjoy)</b> <b>AB 1246 (Leonard)</b> <b>SB 546 (McClintock)</b>

### **BILL SUMMARY**

This bill would provide a sales and use tax exemption for the purchase of any tangible personal property for educational purposes by a K-12 public school or school district.

### **ANALYSIS**

#### **Current Law**

The existing Sales and Use Tax Law imposes a tax on the sale of, or the storage, use, or other consumption in this state of, tangible personal property, unless that property is specifically exempted or excluded by statute.

Generally, public and private schools and school districts are required to pay sales or use tax on their purchases of tangible personal property to the same extent as any other person in this state. In fact, all units of local government as well as the State of California are generally required to pay sales or use tax on their purchases of tangible personal property. Sales to and purchases by the federal government, however, are exempt from sales and use tax.

#### **Proposed Law**

This bill would add Section 6363.4 to the Sales and Use Tax Law to provide a state, local and district sales and use tax exemption for any items purchased for educational purposes by a K-12 public school or school district.

The bill would become effective immediately, but would become operative on the first day of the calendar quarter commencing more than 90 days after the date the bill is enacted.

#### **Background**

Historically, sales to the state and local governments have been subject to the sales and use tax. Other bills proposing to provide a general exemption for sales to, or purchases by, the state, school districts, governmental contractors, or other public entities have failed passage in the past, for example:

AB 4275 (Wyman) of the 1985-1986 Legislative Session would have exempted all purchases or leases of tangible personal property by any subdivision of the state and each governmental unit in the state.

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AB 42 (Katz), as amended July 16, 1987, would have exempted all purchases or leases of tangible personal property by the state, the University of California, or any city, county, special district, or school district.

SB 204 (Kopp, et al.) of the 1987-1988 Session would have exempted all purchases and leases of tangible personal property by any city and county in this state.

SB 416 (Kopp) of the 1987-1988 session, SB 140 (Kopp, et al.) of the 1989-1990 session, and SB 1424 (Kopp) of the 1993-1994 session would have exempted all purchases or leases of tangible personal property by the state, any city and county, special district, or school district if the purchase or lease exceeded \$1,000 and was made with a purchase order.

AB 3176 (Bradley) of the 1987-1988 session would have exempted all purchases or leases of tangible personal property by any school district.

AB 2345 (Ducheny) of the 1999-00 session would have provided a 5% sales and use tax exemption for sales of books to public schools, public school students under the direction of the teacher, or to the public school teacher for professional development.

AB 2348 (Ducheny) of the 1999-00 session would have provided a sales and use tax exemption for sales of college textbooks to students.

SB 1701 (Johnson) of the 1999-00 session would have provided a 5% sales and use tax exemption for purchases of textbooks by a public school.

## COMMENTS

1. **Sponsor and Purpose.** The author is the sponsor of this bill and it is intended to reduce financial burdens on public schools.
2. **Would all purchases qualify as educational?** The bill would provide an exemption for any tangible personal property purchased for educational purposes. There could be some debate over whether or not certain items qualify as educational. For example, a school may argue that its purchase of playground equipment qualifies for an exemption from tax, as it teaches children the art of cooperation, sportsmanship, teamwork, etc. However, a tax agency could argue that playground equipment is purchased for recreational purposes, not for educational purposes, and should not qualify for the exemption. Similar issues could arise over such items as photocopy machines, teachers' desks, office telephones and computers, medical supplies, etc. In order to eliminate the ambiguity, the author may wish to delete this condition entirely, or list the items the author intends to include or exclude from the proposed exemption.
3. **Related legislation.** Three other measures that would provide an exemption for school-related purchases have been introduced this session. These are:
  - AB 1077 (Mountjoy), which would provide a 5% state sales and use tax exemption for the purchase of any tangible personal property by a K-12 public school or school district. The Board voted to support AB 1077.

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- AB 1246 (Leonard), which would exempt from sales and use tax any textbook that is purchased by a student at an institution of higher education or from an entity whose primary purpose is to provide textbooks to students attending institutions of higher education, for use as a learning resource in any course of study at that institution. The Board has not yet adopted a position.
- SB 546 (McClintock), which would exempt from sales and use tax the sale and purchase of any textbook, as defined, purchased by a K-12 public school or school district, or an accredited private school, or sold to a student of an accredited private school or institution of higher education. The Board voted to support SB 546.

## **COST ESTIMATE**

Some costs would be incurred in notifying affected retailers and answering inquiries. These costs are expected to be absorbable.

## **REVENUE ESTIMATE**

### **Background, Methodology, and Assumptions**

According to the California Department of Education, total expenditures per student that would qualify under this proposal are estimated to be \$619. The total number of students in K-12 public schools is 5,838,534. The total expenditures that qualify under this proposal are estimated to be \$3.6 billion (\$619 x 5,838,534).

### **Revenue Summary**

The annual combined state, local, and district revenue loss from exempting the estimated expenditures from the sales and use tax is estimated to be \$285.1 million, calculated as follows:

	Revenue Loss
State loss (5%) *	\$180.0 million
Local loss (2.25%)	81.0 million
Transit loss (0.67%)	<u>24.1 million</u>
Total	<u>\$285.1 million</u>

\*While the state tax rate is 4.75 percent for calendar year 2001, it is assumed the tax rate will return to 5.0 percent in 2002.

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